

# House File 746 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON PUBLIC SAFETY

(SUCCESSOR TO HF 193)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the issuance of permits to carry weapons and  
2 providing an effective date.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 1114HV 83  
5 rh/rj/5

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1 1 Section 1. Section 229.24, subsection 1, Code 2009, is  
1 2 amended to read as follows:  
1 3 1. ~~All Except as otherwise provided in this section, all~~  
1 4 papers and records pertaining to any involuntary  
1 5 hospitalization or application for involuntary hospitalization  
1 6 of any person under this chapter, whether part of the  
1 7 permanent record of the court or of a file in the department  
1 8 of human services, are subject to inspection only upon an  
1 9 order of the court for good cause shown. ~~Nothing in this~~ This  
1 10 section shall not prohibit a hospital from complying with the  
1 11 requirements of this chapter and of chapter 230 relative to  
1 12 financial responsibility for the cost of care and treatment  
1 13 provided a patient in that hospital, ~~nor or~~ from properly  
1 14 billing any responsible relative or third-party payer for such  
1 15 care and treatment.  
1 16 Sec. 2. Section 229.24, Code 2009, is amended by adding  
1 17 the following new subsection:  
1 18 NEW SUBSECTION. 4. The clerk of the district court shall  
1 19 provide to the department of public safety notice of all  
1 20 adjudications of persons involuntarily committed to a mental  
1 21 institution for inpatient or outpatient or other appropriate  
1 22 treatment by reason of serious mental impairment under this  
1 23 chapter. Such notice shall only be used by the department to  
1 24 submit information to the national instant criminal background  
1 25 system maintained by the federal bureau of investigation and  
1 26 shall otherwise remain confidential.  
1 27 Sec. 3. NEW SECTION. 229.46 APPLICATION FOR RELIEF FROM  
1 28 FEDERAL FIREARMS PROHIBITIONS.  
1 29 1. A person who has been adjudicated seriously mentally  
1 30 impaired under this chapter and, as a result of such  
1 31 adjudication, is subject to a federal firearms prohibition  
1 32 pursuant to 18 U.S.C. } 922(g)(4), may apply to the district  
1 33 court for relief from the prohibition. The application for  
1 34 relief shall do all of the following:  
1 35 a. Be filed no earlier than ten years from the  
2 1 adjudication of serious mental impairment.  
2 2 b. State facts upon which relief is sought, including that  
2 3 the applicant no longer suffers from the mental health  
2 4 condition that was the basis for the adjudication. The  
2 5 application shall also state the treatment that has been  
2 6 received since the adjudication including all sources of  
2 7 treatment.  
2 8 2. A hearing on the application shall be held by the court  
2 9 not less than forty-five days after the application has been  
2 10 filed. The applicant shall have the burden of establishing  
2 11 the facts which warrant granting the application.  
2 12 3. Following denial of an application, a subsequent  
2 13 application for relief may be filed no earlier than three  
2 14 years from the date of the order denying the applicant's  
2 15 previous application but only if new facts are alleged to  
2 16 support the application.  
2 17 Sec. 4. Section 724.7, Code 2009, is amended to read as  
2 18 follows:

2 19 724.7 NONPROFESSIONAL PERMIT TO CARRY WEAPONS.  
2 20 ~~Any person who can reasonably justify going armed may be~~  
2 21 ~~issued a nonprofessional permit to carry weapons. The~~  
2 22 ~~issuance of a nonprofessional permit to carry weapons shall be~~  
2 23 ~~by and at the discretion of the issuing officer who shall,~~  
2 24 ~~before issuing the permit, determine that the requirements of~~  
2 25 ~~sections 724.8 through 724.10 have been met. Such permits~~  
2 26 ~~shall be on a form prescribed and published by the~~  
2 27 ~~commissioner of public safety, which shall be readily~~  
2 28 ~~distinguishable from the professional permit, and shall~~  
2 29 ~~identify the holder thereof, and state the reason for the~~  
2 30 ~~issuance of the permit, and the limits of the authority~~  
2 31 ~~granted by such permit. All permits so issued shall be for a~~  
2 32 ~~definite period as established by the issuing officer, but in~~  
2 33 ~~no event shall exceed a period of twelve months of three~~  
2 34 ~~years.~~

2 35 Sec. 5. Section 724.8, Code 2009, is amended to read as  
3 1 follows:

3 2 724.8 PERSONS ELIGIBLE FOR PERMIT TO CARRY WEAPONS.

3 3 ~~No~~ A person shall not be issued a professional or  
3 4 nonprofessional permit to carry weapons unless:

3 5 1. The person is eighteen years of age or older for a  
3 6 professional permit or twenty-one years or older for a  
3 7 nonprofessional permit.

3 8 2. The person has never been convicted of a felony.

3 9 3. The person is not addicted to the use of alcohol or any  
3 10 controlled substance.

3 11 4. The person has no history of repeated acts of violence.

3 12 5. The issuing officer reasonably determines that the  
3 13 applicant does not constitute a danger to any person.

3 14 6. The person has never been convicted of any crime  
3 15 defined in chapter 708, except "assault" as defined in section  
3 16 708.1 and "harassment" as defined in section 708.7.

3 17 7. The person has not been committed to a mental  
3 18 institution for purposes of 18 U.S.C. } 922(g)(4).

3 19 8. The person is not subject to a protective order  
3 20 pursuant to 18 U.S.C. } 922(g)(8) and has not been convicted  
3 21 of a misdemeanor crime of domestic violence pursuant to 18  
3 22 U.S.C. } 922(g)(9). It is the intent of the general assembly  
3 23 that violations of these federal laws be strictly enforced in  
3 24 the courts of this state.

3 25 Sec. 6. Section 724.9, Code 2009, is amended to read as  
3 26 follows:

3 27 724.9 ~~FIREARM~~ FIREARMS TRAINING PROGRAM.

3 28 A training program to qualify persons in the safe use of  
3 29 firearms shall be provided by the issuing officer of permits,  
3 30 as provided in section 724.11.

3 31 1. The course of instruction required for a person to  
3 32 apply for a permit under this chapter shall qualify a person  
3 33 on a firing range and shall be limited to a maximum of six  
3 34 hours in length. The course of instruction shall include all  
3 35 of the following:

4 1 a. Firearms safety in the classroom, at home, on the  
4 2 firing range, and while carrying the firearm.

4 3 b. A physical demonstration performed by the applicant  
4 4 that demonstrates the applicant's ability to safely load and  
4 5 unload a revolver or a semiautomatic pistol and the  
4 6 applicant's marksmanship.

4 7 c. The basic principles of marksmanship.

4 8 d. The law relating to firearms pursuant to this chapter.

4 9 e. The law relating to the justifiable use of force  
4 10 pursuant to chapter 704.

4 11 f. A live fire shooting test administered to an applicant  
4 12 pursuant to section 724.9A.

4 13 2. ~~The commissioner of public safety shall approve the~~  
4 14 ~~training program, and or the county sheriff or the~~  
4 15 ~~commissioner of public safety conducting may conduct the~~  
4 16 ~~training program within their respective jurisdictions, or may~~  
4 17 ~~contract with a private organization or use the services of~~  
4 18 ~~other agencies, or may use a combination of the two, to~~  
4 19 ~~provide such a training program that meets the standards~~  
4 20 ~~specified in subsection 1. Any person eligible to be issued a~~

4 21 ~~permit to carry weapons may enroll in such course. A fee~~  
4 22 ~~sufficient to cover the cost of the program may be charged to~~  
4 23 ~~each person attending. Certificates of completion, on a form~~  
4 24 ~~prescribed and published by the commissioner of public safety,~~  
4 25 ~~shall be issued by a qualified firearms safety instructor~~  
4 26 ~~subject to the restrictions of section 724.9B to each person~~  
4 27 ~~who successfully completes the program. No A person shall not~~  
4 28 ~~be issued either a professional or nonprofessional permit to~~  
4 29 ~~carry weapons unless the person has received a certificate of~~

4 30 completion or is a certified peace officer. ~~No A peace~~  
4 31 officer or correctional officer, except a certified peace  
4 32 officer, shall not go armed with a pistol or revolver unless  
4 33 the officer has received a certificate of completion, provided  
4 34 that this requirement shall not apply to ~~persons who are~~  
~~4 35 employed in this state as peace officers on January 1, 1978~~  
~~5 1 until July 1, 1978, or to peace officers of other~~  
5 2 jurisdictions exercising their legal duties within this state.  
5 3 Sec. 7. NEW SECTION. 724.9A LIVE FIRE SHOOTING TEST.  
5 4 1. A live fire shooting test shall be administered in the  
5 5 presence of a firearms safety instructor qualified under  
5 6 section 724.9C to an applicant for a nonprofessional permit to  
5 7 carry weapons. The live fire shooting test shall consist of  
5 8 thirty rounds fired from a standing position or its equivalent  
5 9 at a distance from a B=27 silhouette target or an FBI "Q"  
5 10 target, ten rounds fired from a distance of five yards, ten  
5 11 rounds fired from a distance of seven yards, and ten rounds  
5 12 fired from a distance of ten yards. Two sets of five rounds  
5 13 shall be fired consecutively at each designated distance and  
5 14 each five-round string shall be fired within thirty seconds.  
5 15 Twenty-one of the rounds fired must strike either the  
5 16 eight-ring on the B=27 target or the smallest FBI "Q" target  
5 17 to pass the live fire shooting test.  
5 18 2. An applicant for a nonprofessional permit to carry  
5 19 weapons may attempt to pass the live fire shooting test  
5 20 administered pursuant to subsection 1 up to three times in one  
5 21 day but must pass the shooting test within two weeks of  
5 22 completing a firearms training program pursuant to section  
5 23 724.9. An applicant who fails the live fire shooting test  
5 24 within the requisite two-week period shall be required to  
5 25 retake the firearms training program prior to again attempting  
5 26 to pass the live fire shooting test.  
5 27 3. The provisions of this section shall be implemented  
5 28 uniformly throughout the state and shall constitute the  
5 29 statewide standard for the course of instruction qualifying a  
5 30 person to shoot on a firing range pursuant to section 724.9.  
5 31 Sec. 8. NEW SECTION. 724.9B CERTIFICATE OF COMPLETION.  
5 32 A qualified firearms safety instructor shall not issue a  
5 33 certificate of completion to an applicant for a permit to  
5 34 carry weapons who does any of the following:  
5 35 1. Fails to demonstrate the requisite knowledge and  
6 1 technique regarding the proper handling of a firearm.  
6 2 2. Handles a firearm in a manner that, in the judgment of  
6 3 the qualified firearms safety instructor, poses a danger to  
6 4 the applicant or others.  
6 5 3. Fails the live fire shooting test pursuant to the  
6 6 requirements specified in section 724.9A.  
6 7 Sec. 9. NEW SECTION. 724.9C QUALIFIED FIREARMS SAFETY  
6 8 INSTRUCTOR.  
6 9 A firearms safety instructor shall be considered to be a  
6 10 qualified firearms safety instructor if the instructor has any  
6 11 of the following qualifications:  
6 12 1. Is certified by the national rifle association as an  
6 13 instructor in any course that provides basic instruction in  
6 14 pistol marksmanship or in the use of pistols or revolvers for  
6 15 personal protection.  
6 16 2. Is certified as a firearms safety instructor by a  
6 17 local, state, or federal governmental agency.  
6 18 3. Is certified as a firearms safety instructor by  
6 19 successful completion of a course approved by the department  
6 20 of public safety.  
6 21 4. Has successfully completed a firearms safety instructor  
6 22 course given by or under the supervision of any state, county,  
6 23 municipal, or federal law enforcement agency.  
6 24 5. Is a certified police officer firearms safety  
6 25 instructor.  
6 26 6. Is a certified law enforcement academy firearms safety  
6 27 instructor.  
6 28 Sec. 10. Section 724.11, Code 2009, is amended to read as  
6 29 follows:  
6 30 724.11 ISSUANCE OF PERMIT TO CARRY WEAPONS.  
6 31 1. Applications for permits to carry weapons shall be made  
6 32 to the sheriff of the county in which the applicant resides.  
6 33 Applications from persons who are nonresidents of the state,  
6 34 or whose need to go armed arises out of employment by the  
6 35 state, shall be made to the commissioner of public safety. In  
7 1 either case, the issuance of the permit shall be by and at the  
7 2 discretion of the sheriff or commissioner, who shall, before  
7 3 issuing the permit, determine that the requirements of  
7 4 sections 724.6 to 724.10 have been satisfied. However, the  
7 5 training program requirements in section 724.9 ~~may~~ shall be

7 6 waived for renewal of nonprofessional permits and may be  
7 7 waived for issuance of a nonprofessional permit that is  
7 8 restricted to the carrying of a dangerous weapon other than a  
7 9 firearm. If the sheriff or the commissioner denies an  
7 10 application for a permit or restricts a permit under this  
7 11 section, unless such restriction is uniformly applied to all  
7 12 nonprofessional permits issued pursuant to standards published  
7 13 by the sheriff or the commissioner, the sheriff or  
7 14 commissioner shall provide a written statement of the reasons  
7 15 for the denial or the restriction to the applicant by regular  
7 16 mail within twenty working days of the filing of the  
7 17 application.

7 18 2. The issuing officer shall collect a fee of ~~ten~~ thirty  
7 19 dollars, except from a duly appointed peace officer or  
7 20 correctional officer, for each permit issued. Renewal permits  
7 21 or duplicate permits shall be issued for a fee of ~~five~~ fifteen  
7 22 dollars. The issuing officer shall notify the commissioner of  
7 23 public safety of the issuance of any permit at least monthly  
7 24 and forward to the commissioner an amount equal to ~~two~~ six  
7 25 dollars for each permit issued and ~~one dollar~~ three dollars  
7 26 for each renewal or duplicate permit issued. All such fees  
7 27 received by the commissioner shall be paid to the treasurer of  
7 28 state and deposited in the operating account of the department  
7 29 of public safety to offset the cost of administering this  
7 30 chapter. ~~Any~~ Notwithstanding section 8.33, any unspent  
7 31 balance as of June 30 of each year shall ~~not~~ revert to the  
7 32 general fund ~~as provided by section 8.33~~ but shall remain  
7 33 available to the department.

7 34 Sec. 11. NEW SECTION. 724.11A RECIPROCITY.

7 35 A person possessing a valid permit to carry weapons issued  
8 1 by the person's state of residence shall be entitled to the  
8 2 privileges and subject to the restrictions prescribed in this  
8 3 chapter provided the state that issued the license has been  
8 4 designated as a Brady-alternative state pursuant to 18 U.S.C.  
8 5 } 922(t)(3) as determined by the federal bureau of alcohol,  
8 6 tobacco, firearms, and explosives. The department of public  
8 7 safety shall post such information on the department's  
8 8 internet site.

8 9 Sec. 12. NEW SECTION. 724.14 IMMUNITY.

8 10 The sheriff or the commissioner of public safety shall not  
8 11 be liable for damages in any civil action arising from the  
8 12 alleged wrongful issuance, renewal, or failure to revoke a  
8 13 permit to carry weapons provided that the sheriff or the  
8 14 commissioner acted reasonably and in good faith and in  
8 15 accordance with the provisions of this chapter in carrying out  
8 16 the sheriff's or the commissioner's official duties.

8 17 Sec. 13. NEW SECTION. 724.21A HEARING ON DENIAL OR  
8 18 RESTRICTION OF PERMIT TO CARRY WEAPONS.

8 19 1. In any case where the sheriff or the commissioner of  
8 20 public safety denies an application for a permit to carry  
8 21 weapons or issues a permit with a restriction, the denied  
8 22 applicant or holder of a restricted permit shall have the  
8 23 right to appeal the denial or restriction to an administrative  
8 24 law judge in the department of inspections and appeals within  
8 25 thirty days of receiving written notice of the denial or  
8 26 restriction.

8 27 2. A denial of an application for a permit to carry  
8 28 weapons or the issuance of a permit with a restriction may be  
8 29 appealed by filing with an administrative law judge a copy of  
8 30 the denial or the restricted permit with a written statement  
8 31 that clearly states the applicant's reasons rebutting the  
8 32 denial or the restriction along with a fee of ten dollars.  
8 33 Additional supporting information relevant to the application  
8 34 for a permit may also be included.

8 35 3. The administrative law judge shall grant an aggrieved  
9 1 applicant an opportunity to be heard within forty-five days of  
9 2 receipt of the request for an appeal. The hearing may be held  
9 3 by telephone conference at the discretion of the  
9 4 administrative law judge.

9 5 4. Upon hearing, the administrative law judge shall order  
9 6 that the denial of the application or restriction of the  
9 7 permit be either rescinded or sustained. An applicant, holder  
9 8 of a restricted permit, or issuing officer aggrieved by the  
9 9 final judgment of the administrative law judge shall have the  
9 10 right to judicial review in accordance with the terms of the  
9 11 Iowa administrative procedure Act, chapter 17A.

9 12 Sec. 14. EFFECTIVE DATE. The sections of this Act  
9 13 amending chapter 229 take effect January 1, 2010.

9 14 EXPLANATION

9 15 This bill relates to the issuance of weapons permits.

9 16 The bill requires the clerk of the district court to

9 17 provide to the department of public safety notice of all  
9 18 adjudications of persons involuntarily committed to a mental  
9 19 institution for inpatient or outpatient or other appropriate  
9 20 treatment by reasons of serious mental impairment under Code  
9 21 chapter 229. This notice shall only be used by the department  
9 22 of public safety to submit information to the national instant  
9 23 criminal background system maintained by the federal bureau of  
9 24 investigation and shall otherwise remain confidential. This  
9 25 provision of the bill takes effect January 1, 2010.

9 26 The bill provides that a person who has been adjudicated  
9 27 seriously mentally impaired under Code chapter 229 and, as a  
9 28 result, is subject to a federal firearms prohibition under  
9 29 federal law, may apply to the district court for relief from  
9 30 prohibition, if certain requirements are met.

9 31 The bill provides that a person who is at least 21 and who  
9 32 meets additional eligibility requirements shall be issued, at  
9 33 the discretion of the issuing officer, a nonprofessional  
9 34 permit to carry weapons. The bill provides that persons who  
9 35 have been committed to a mental institution under federal law  
10 1 or persons who are subject to protective orders or who have  
10 2 been convicted of a misdemeanor crime of domestic violence  
10 3 under federal law are all ineligible for a permit to carry  
10 4 weapons. The bill provides that a permit to carry a weapon  
10 5 shall be issued for a three-year period for a fee of \$30.

10 6 The bill amends current law relating to a firearms training  
10 7 program. Firearms training program requirements shall be  
10 8 waived for renewal of nonprofessional permits to carry weapons  
10 9 and may be waived for issuance of a nonprofessional permit  
10 10 that is restricted to the carrying of a dangerous weapon other  
10 11 than a firearm. The bill provides that the course of  
10 12 instruction required for a person to apply for a permit to  
10 13 carry weapons shall qualify a person on a firing range and  
10 14 shall be limited to a maximum of six hours. The bill further  
10 15 provides a statewide standard designed to qualify an applicant  
10 16 for a nonprofessional permit to carry weapons to shoot on a  
10 17 firing range.

10 18 The bill provides that a qualified firearms safety  
10 19 instructor shall issue a certificate of completion to a person  
10 20 who successfully completes the training program, including the  
10 21 completion of the requirements relating to live fire  
10 22 ammunition testing on a firing range. The bill specifically  
10 23 provides that a person who does not follow the orders of the  
10 24 qualified firearms safety instructor, handles a firearm in a  
10 25 manner that poses a danger to the applicant or others, or who  
10 26 fails to pass the live fire testing portion of the training  
10 27 program shall not be issued a certificate of completion. An  
10 28 applicant for a permit to carry weapons shall not be issued a  
10 29 permit to carry weapons unless the applicant has received a  
10 30 certificate of completion or is a certified peace officer.

10 31 The bill defines a qualified firearms safety instructor as  
10 32 a person who meets any of the following qualifications:

10 33 1. Is certified by the national rifle association as an  
10 34 instructor in any course that provides basic instruction in  
10 35 pistol marksmanship or in the use of pistols or revolvers for  
11 1 personal protection.

11 2 2. Is certified as a firearms safety instructor by a  
11 3 local, state, or federal governmental agency.

11 4 3. Is certified as a firearms safety instructor by  
11 5 successful completion of a course approved by the department  
11 6 of public safety.

11 7 4. Has successfully completed a firearms safety instructor  
11 8 course given by or under the supervision of any state, county,  
11 9 municipal, or federal law enforcement agency.

11 10 5. Is a certified police officer firearms safety  
11 11 instructor.

11 12 6. Is a certified law enforcement academy firearms safety  
11 13 instructor.

11 14 The bill provides that if the sheriff or commissioner  
11 15 restricts or denies an application for a concealed weapons  
11 16 permit, the sheriff or commissioner shall provide a written  
11 17 statement of the reasons for the restriction or denial.

11 18 The bill provides that a person possessing a valid permit  
11 19 to carry weapons issued by the person's state of residence  
11 20 shall be entitled to the privileges and subject to the  
11 21 restrictions prescribed in Code chapter 724 provided the state  
11 22 that issued the license has been designated as a  
11 23 Brady-alternative state pursuant to 18 U.S.C. } 922(t)(3) as  
11 24 determined by the federal bureau of alcohol, tobacco,  
11 25 firearms, and explosives. The department of public safety  
11 26 shall post such information on the department's internet site.

11 27 The bill provides that the sheriff or the commissioner of

11 28 public safety shall not be liable for damages in any civil  
11 29 action arising from the alleged wrongful issuance, renewal, or  
11 30 failure to revoke a permit to carry weapons provided that the  
11 31 sheriff or the commissioner acted reasonably and in good faith  
11 32 and in accordance with provisions of Code chapter 724 in  
11 33 carrying out the sheriff's or the commissioner's official  
11 34 duties.

11 35 The bill provides an administrative review procedure for an  
12 1 applicant who has been denied a permit to carry concealed  
12 2 weapons or who has had a restriction placed on the permit.  
12 3 The denied applicant or restricted holder of the permit may  
12 4 file an appeal of the denial to an administrative law judge in  
12 5 the department of inspections and appeals within 30 days of  
12 6 receiving written notice of the denial or restriction. The  
12 7 applicant must then file a copy of the denial or the  
12 8 restricted permit and a written statement that clearly states  
12 9 the applicant's reasons rebutting the denial or restriction  
12 10 along with a fee of \$10. The administrative law judge shall  
12 11 grant an aggrieved applicant an opportunity to be heard within  
12 12 45 days of receipt of the request for an appeal. An  
12 13 applicant, holder of a restricted permit, or issuing officer  
12 14 aggrieved by the final judgment of the administrative law  
12 15 judge shall have the right to judicial review in accordance  
12 16 with the terms of the Iowa administrative procedure Act, Code  
12 17 chapter 17A.

12 18 LSB 1114HV 83

12 19 rh/rj/5